

JAMES LEMASTERS and
VICKIE LEMASTERS,

VS.

WAUSAU HOMES INCORPORATED,
PHILLIPS BUILDERS, LLC, and
SCOTT PHILLIPS,

**SEPARATE DEFENDANT WAUSAU HOMES INCORPORATED'S ANSWER TO
PLAINTIFFS' COMPLAINT AND AFFIRMATIVE DEFENSES**

NATURE OF ACTION

- ## PARTIES

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6. Wausau Homes admits that it is a Wisconsin corporation that operates in at least nine states, including Missouri. Wausau Homes further admits that it supplies Wausau Homes factory-built components to builders in its network. Wausau Homes denies the characterization that it “operates through a network that includes Wausau-approved local builders.” Wausau Homes further admits that it is a registered business in good standing with the State of Missouri and has a registered agent in Missouri. To the extent any allegations remain in Paragraph 6, Wausau Homes denies the same.

7. Wausau Homes admits that Phillips Builders, LLC (“Phillips Builders”) was at one time a builder in its network that contracted with the Plaintiffs for the construction of a home. Wausau Homes further admits that Phillips Builders utilized a Maryville, Missouri office but denies that Phillips Builders “operated” any Wausau Homes office. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 7.

8. Wausau Homes denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8.

JURISDICTION AND VENUE

9. Without waiving its jurisdictional objections, Wausau Homes admits the allegations contained in paragraph 9.

10. Without waiving its jurisdictional objections, Wausau Homes admits the allegations contained in paragraph 10.

11. Without waiving its jurisdictional objections, Wausau Homes admits it sells products to authorized builders in at least nine states, including Missouri, which would

subject Wausau Homes to personal jurisdiction in this District and Division. Wausau Homes denies that it, or its subsidiaries and affiliates, “continuously and systematically” solicit customers and provide services. To the extent any allegations remain in Paragraph 11, Wausau Homes denies the same.

FACTUAL ALLEGATIONS

12. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 12.

13. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 13.

14. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 14.

15. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 15.

16. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 16.

Plaintiffs’ Allegations Regarding Wausau Homes’ Promises

17. Wausau denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 17.

18. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 18, Wausau Homes denies the same.

19. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 19, Wausau Homes denies the same.

20. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 20, Wausau Homes denies the same.

21. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 21, Wausau Homes denies the same.

22. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 22, Wausau Homes denies the same.

23. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the characterization of such statements as “promises.” To the extent any allegations remain in Paragraph 23, Wausau Homes denies the same.

24. Wausau Homes denies the allegations contained in Paragraph 24.

25. Wausau Homes admits that the quoted statements were contained on certain versions of its website. Wausau Homes denies the remaining allegations contained in Paragraph 25.

26. Wausau Homes denies the allegations contained in Paragraph 26. Wausau Homes admits that from time to time it advertised for and retained “set contractors” as independent contractors to erect the Wausau Homes components of a home, all under the supervision of the local builder.

27. Wausau Homes admits the quoted statements were contained on certain versions of its website. Wausau Homes denies the remaining allegations contained in Paragraph 27.

28. Wausau Homes admits that Phillips Builders was a Wausau Homes local builder. Wausau Homes denies the remaining characterizations and allegations contained in Paragraph 28.

29. Wausau Homes admits that Phillips Builders operated out of an office in Maryville that it owned or leased, had an email address with a Wausau Homes domain name, and that a version of the Wausau Homes’ website contained information concerning Phillips Builders. Wausau Homes denies the allegation that Phillips Builders had “a custom web page” on the Wausau Homes website and that the office was a Wausau Homes’ office owned or leased by Wausau Homes. To the extent any allegations remain in Paragraph 29, Wausau Homes denies the same.

30. Wausau Homes admits the quoted statements were contained on certain versions of its website. Wausau denies the characterization that local builders such as

Phillips Builders were “celebrated” as part of the Wausau Homes network. To the extent any allegations remain in Paragraph 30, Wausau Homes denies the same.

31. Wausau Homes admits that the builders in its network operated throughout certain states of the Midwest but denies the remaining allegations contained in Paragraph 31.

32. Wausau Homes denies the allegations contained in Paragraph 32.

33. Wausau Homes denies the allegations contained in Paragraph 33.

34. Wausau Homes denies the allegations contained in Paragraph 34.

35. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 35.

36. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 36.

37. Wausau Homes denies the allegations contained in Paragraph 37.

38. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 38.

39. Wausau Homes denies the allegations contained in Paragraph 39.

40. Wausau Homes denies the allegations contained in Paragraph 40.

41. Wausau Homes denies the allegations contained in Paragraph 41.

42. Wausau Homes denies the allegations contained in Paragraph 42.

43. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 43.

44. Wausau Homes denies the allegations contained in Paragraph 44.

45. Wausau Homes admits that Phillips signed a Confession of Judgment.

Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 45.

46. Wausau Homes denies the allegations made against it in Paragraph 46.

Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 46.

47. Wausau Homes denies the allegations contained in Paragraph 47.

Plaintiff's Allegations Regarding Defendants
Failing to Abide by Promises to Plaintiffs

48. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 48.

49. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 49.

50. Wausau Homes admits that the Plaintiffs contracted with Phillips Builders for the construction of a home for the price of \$711,244.00. To the extent any allegations remain in Paragraph 50, Wausau Homes denies the same.

51. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 51.

52. Wausau Homes denies the characterization of such statements as “promises.” Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 52.

53. Wausau Homes denies the allegations made against it in Paragraph 53.

54. Wausau Homes denies the allegations made against it in Paragraph 54.

Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 54.

55. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 55.

56. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 56.

57. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 57.

The Lemasters House

58. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 58.

59. Wausau Homes denies the allegations against it in Paragraph 59. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 59.

60. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 60.

61. Wausau Homes denies that it made any “guarantee” regarding Phillips Builders’ work or price as well as any other allegation against it in Paragraph 61. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 61.

62. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 62.

63. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 63.

64. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 64.

65. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 65.

66. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 66.

67. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 67.

68. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 68.

69. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 69.

70. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 70.

71. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 71.

72. Wausau Homes denies the allegations against it in Paragraph 72. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 72.

73. Wausau Homes denies the allegations against it in Paragraph 73. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 73.

74. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 74.

75. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 75.

76. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 76.

77. Wausau Homes denies that it made any guarantees and the remaining allegations against it in Paragraph 77. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 77.

78. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 78.

79. Wausau Homes denies that it had any duty to finish the remainder of the work on Plaintiffs' house and the remaining allegations against it in Paragraph 79. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 79.

80. Wausau Homes denies that it made any “guarantees” regarding Phillips Builders’ work and the remaining allegations against it in Paragraph 80. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 80.

81. Wausau Homes denies the allegations against it in Paragraph 81. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 81.

82. Wausau Homes denies the allegations against it in Paragraph 82. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 82.

83. Wausau Homes denies the allegations against it in Paragraph 83. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 83.

84. Wausau Homes denies that it made any “guarantees” regarding Phillips Builders’ work and the remaining allegations against it in Paragraph 84. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 84.

85. Wausau Homes denies that it had any duty to complete Plaintiffs’ home and the remaining allegations against it in Paragraph 85. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 85.

86. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 86.

Plaintiffs' Allegations of Wausau Homes Refusing to Take Responsibility

87. Wausau Homes denies that it had a duty to correct the actions of Phillips Builders as well as the remaining allegations contained in Paragraph 87.

88. Wausau Homes denies that it had a duty to correct the actions of Phillips Builders or to complete the house as well as the remaining allegations contained in Paragraph 88.

89. Wausau Homes denies the allegations against it in Paragraph 89. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 89.

90. Wausau Homes denies the allegations made in Paragraph 90.

91. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 91.

92. Wausau Homes denies the allegations made in Paragraph 92.

93. Wausau Homes denies the allegations made in Paragraph 93.

COUNT I

94. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

95. Paragraph 95 contains only a statement of law and does not require a response.

96. Paragraph 96 contains only a statement of law and does not require a response.

97. Wausau Homes denies the allegations against it contained in Paragraph 97. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 97.

98. Wausau Homes denies the allegations contained in Paragraph 98.

99. Wausau Homes admits that the Plaintiffs contracted with Phillips Builders for the construction of a home, and that Wausau Homes supplied Wausau Homes factory-built components for the home. Wausau Homes denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 99.

100. Wausau Homes denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 100.

101. Wausau Homes denies the allegations against it contained in Paragraph 101. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 101.

102. Wausau Homes denies the allegations against it contained in Paragraph 102. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 102.

103. Wausau Homes denies the allegations against it contained in Paragraph 103. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 103.

104. Wausau Homes denies the allegations against it contained in Paragraph 104. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 104.

105. Wausau Homes denies the allegations against it contained in Paragraph 105. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 105.

106. Wausau Homes denies the allegations against it contained in Paragraph 106. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 106.

107. Wausau Homes denies the allegations contained in Paragraph 107.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT II

108. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

109. Wausau Homes denies the allegations contained in Paragraph 109 and its subparts (a) through (e).

110. Wausau Homes denies the allegations contained in Paragraph 110.

111. Wausau Homes denies the allegations contained in Paragraph 111.

112. Wausau Homes denies the allegations contained in Paragraph 112.

113. Wausau Homes denies the allegations contained in Paragraph 113.

114. Wausau Homes denies the allegations contained in Paragraph 114.

115. Wausau Homes denies the allegations contained in Paragraph 115.

116. Wausau Homes denies the allegations against it contained in Paragraph 116.
Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 116.

117. Wausau Homes denies the allegations against it contained in Paragraph 117.
Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 117.

118. Wausau Homes denies the allegations against it contained in Paragraph 118.
Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 118.

119. Wausau Homes denies the allegations against it contained in Paragraph 119.
Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 119.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT III

120. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

121. Wausau Homes denies the allegations contained in Paragraph 121 and its subparts (a) through (e).

122. Wausau Homes denies the allegations contained in Paragraph 122.

123. Wausau Homes denies the allegations contained in Paragraph 123.

- 124. Wausau Homes denies the allegations contained in Paragraph 124.
- 125. Wausau Homes denies the allegations contained in Paragraph 125.
- 126. Wausau Homes denies the allegations contained in Paragraph 126.
- 127. Wausau Homes denies the allegations contained in Paragraph 127.
- 128. Wausau Homes denies the allegations contained in Paragraph 128.
- 129. Wausau Homes denies the allegations contained in Paragraph 129.
- 130. Wausau Homes denies the allegations contained in Paragraph 130.
- 131. Wausau Homes denies the allegations contained in Paragraph 131.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT IV

132. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

- 133. Wausau Homes denies the allegations contained in Paragraph 133.
- 134. Wausau Homes denies the allegations contained in Paragraph 134.
- 135. Wausau Homes denies the allegations contained in Paragraph 135.
- 136. Wausau Homes denies the allegations contained in Paragraph 136.
- 137. Wausau Homes denies the allegations contained in Paragraph 137.
- 138. Wausau Homes denies the allegations contained in Paragraph 138.
- 139. Wausau Homes denies the allegations contained in Paragraph 139.

140. Wausau Homes denies the allegations against it contained in Paragraph 140. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 140.

141. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 141.

142. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 142.

143. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 143.

144. Wausau Homes admits that Phillips Builders signed a Confession of Judgment. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 144.

145. Wausau Homes denies the allegations contained in Paragraph 145.

146. Wausau Homes denies the allegations contained in Paragraph 146.

147. Wausau Homes denies the allegations contained in Paragraph 147.

148. Wausau Homes denies the allegations against it contained in Paragraph 148. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 148.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT V

149. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

150. Wausau Homes denies the allegations contained in Paragraph 150.

151. Wausau Homes denies the allegations against it contained in Paragraph 151. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 151.

152. Wausau Homes denies the allegations contained in Paragraph 152.

153. Wausau Homes denies the allegations contained in Paragraph 153.

154. Wausau Homes admits that Phillips signed a Confession of Judgment. To the extent any allegations remain in Paragraph 154, Wausau Homes denies the same.

155. Wausau Homes denies the allegations contained in Paragraph 155.

156. Wausau Homes denies the allegations contained in Paragraph 156.

157. Wausau Homes denies the allegations contained in Paragraph 157.

158. Wausau Homes denies the allegations contained in Paragraph 158.

159. Wausau Homes denies the allegations contained in Paragraph 159.

160. Wausau Homes denies the allegations contained in Paragraph 160.

161. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 161.

162. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 162.

163. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 163.

164. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 164.

165. Wausau Homes denies the allegations against it contained in Paragraph 165. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 165.

166. Wausau Homes denies the allegations contained in Paragraph 166.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT VI

167. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

168. Wausau Homes admits the allegations contained in Paragraph 168.

169. Wausau Homes denies the allegations contained in Paragraph 169.

170. Wausau Homes denies the allegations contained in Paragraph 170.

171. Wausau Homes denies the allegations against it contained in Paragraph 171. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 171.

172. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 172.

173. Wausau Homes denies the allegations against it contained in Paragraph 173. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 173.

174. Wausau Homes denies the allegations contained in Paragraph 174.

175. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 175.

176. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 176.

177. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 177.

178. Wausau Homes denies the allegations against it contained in Paragraph 178. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 178.

179. Wausau Homes denies the allegations contained in Paragraph 179.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

COUNT VII

180. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

181-191. Count VII is not asserted against Wausau Homes. Accordingly, the allegations set forth under Count VII, including all of the allegations in Paragraphs 181-

191 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Count VII is not alleged against Wausau Homes. Accordingly, the Prayer for Relief under Count VII does not require a response. To the extent a response is required, Wausau Homes denies that Plaintiffs are entitled to the relief sought.

COUNT VIII

192. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

193-199. Count VIII is not asserted against Wausau Homes. Accordingly, the allegations set forth under Count VIII, including all of the allegations in Paragraphs 193-199 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Count VIII is not alleged against Wausau Homes. Accordingly, the Prayer for Relief under Count VIII does not require a response. To the extent a response is required, Wausau Homes denies that Plaintiffs are entitled to the relief sought.

COUNT IX

200. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

201-210. Count IX is not asserted against Wausau Homes. Accordingly, the allegations set forth under Count IX, including all of the allegations in Paragraphs 201-210 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Count IX is not alleged against Wausau Homes. Accordingly, the Prayer for Relief under Count IX does not require a response. To the extent a response is required, Wausau Homes denies that Plaintiffs are entitled to the relief sought.

COUNT X

211. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

212-218. Count X is not asserted against Wausau Homes. Accordingly, the allegations set forth under Count X, including all of the allegations in Paragraphs 212-218 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Count X is not alleged against Wausau Homes. Accordingly, the Prayer for Relief under Count X does not require a response. To the extent a response is required, Wausau Homes denies that Plaintiffs are entitled to the relief sought.

COUNT XI

219. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

220-227. Count XI is not asserted against Wausau Homes. Accordingly, the allegations set forth under Count XI, including all of the allegations in Paragraphs 220-227 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Count XI is not alleged against Wausau Homes. Accordingly, the Prayer for Relief under Count XI does not require a response. To the extent a response is required, Wausau Homes denies that Plaintiffs are entitled to the relief sought.

COUNT XII

228. Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

229. Wausau Homes denies the allegations contained in Paragraph 229.

230. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the allegations contained in Paragraph 230.

231. Wausau Homes denies the allegations against it contained in Paragraph 231. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 231.

232. Wausau Homes denies the allegations against it contained in Paragraph 232. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 232.

233. Wausau Homes denies the allegations against it contained in Paragraph 233. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 233.

234. Wausau Homes denies the allegations made in Paragraph 234.

235. Wausau Homes denies the allegations against it contained in Paragraph 235. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 235.

236. Wausau Homes denies the allegations against it contained in Paragraph 236. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 236.

237. Wausau Homes denies the allegations contained in Paragraph 237.

238. Wausau Homes denies the allegations against it contained in Paragraph 238. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 238.

239. Wausau Homes denies the allegations against it contained in Paragraph 239. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 239.

240. Wausau Homes denies the allegations against it contained in Paragraph 240. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 240.

241. Wausau Homes denies the allegations against it contained in Paragraph 241. Wausau Homes denies information or knowledge sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 241.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

ALTER EGO

Wausau Homes repeats and realleges its answers to the prior allegations as if fully set forth herein.

242-249. Alter Ego is not asserted against Wausau Homes. Accordingly, the allegations set forth in Paragraphs 242-249 inclusive do not require a response. To the extent a response is required, Wausau Homes denies the allegations.

Wausau Homes denies that Plaintiffs are entitled to the relief sought in their Prayer for Relief.

DEFENSES AND AFFIRMATIVE DEFENSES

Defendant Wausau Homes Incorporated (“Wausau Homes”), without assuming any burden of proof, persuasion, or production not otherwise legally assigned to Wausau Homes as to any element of Plaintiffs’ claims, Wausau Homes asserts the following defenses and affirmative defenses applicable to Plaintiffs:

1. This Court lacks subject matter jurisdiction over this action.
2. Plaintiffs are bound by agreements to arbitrate the disputes pleaded.
3. Plaintiffs fail to state a cause of action against Wausau Homes.
4. Plaintiffs have failed to take reasonable steps to reduce, minimize, or otherwise mitigate any damages they allegedly suffered.
5. Plaintiffs’ claims are barred, reduced, and/or limited pursuant to applicable statutory and common law regarding limitations of awards, caps on recovery, and setoffs.
6. Any alleged injuries or damages Plaintiffs sustained were caused wholly or in part by acts, omissions, and/or conduct of itself or other entities, or by other intervening or superseding events, factors, occurrences, or conditions, which were the sole proximate cause or an intervening or superseding cause of any injury or damage.

7. Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel (including, without limitation, equitable estoppel and/or judicial estoppel), in pari delicto, unclean hands, laches, and/or consent.

8. Wausau Homes did not use or employ deception, fraud, false pretense, false promise, misrepresentation, or unfair practice, or conceal or omit any material fact in connection with the sale or advertisement of its products or services.

9. Wausau Homes made no misrepresentations in the course of its business.

10. Wausau Homes exercised reasonable care in providing any alleged representations.

11. Plaintiffs did not justifiably rely on any alleged information provided by Wausau Homes.

12. Plaintiffs did not suffer an ascertainable loss of money or property as the result of any negligence, act, omission, or representation of Wausau Homes.

13. Wausau Homes did not have a duty to supervise Phillips Builders.

14. Wausau Homes had no reason to know that Phillips Builders would fail to abide by their contracts with Wausau Homes and with Plaintiffs.

15. Wausau Homes made no guarantees or promises to Plaintiffs.

16. Wausau Homes owed no contractual duties to Plaintiffs.

17. Wausau Homes did not sell goods or services to Plaintiffs.

18. Wausau Homes performed at all times in a good and workmanlike fashion, and the goods it supplied Phillips Builders were merchantable at the time of sale.

19. Neither Scott Phillips nor Phillips Builders is not an agent or employee of Wausau Homes.

20. Wausau Homes is not liable for the acts or omissions of Phillips Builders or Scott Phillips.

21. Wausau Homes did not unreasonably use its property or Plaintiffs' property.

22. Wausau Homes did not substantially impair Plaintiffs' alleged right to peacefully use their property.

23. Wausau Homes reserves the right to assert additional defenses and to amend and/or supplement those defenses asserted herein upon discovery of further information concerning the events and circumstances in the Complaint.

WHEEFORE, having fully answered Plaintiffs' Complaint, Defendant Wausau Homes Incorporated ("Wausau Homes"), respectfully requests that this Court enter judgment and provide relief as follows:

A. That Plaintiffs' causes of action stated in the Complaint be dismissed with prejudice;

B. That Wausau Homes be awarded reasonable attorneys' fees, expenses, and costs incurred in connection with this action, to the extent permitted by applicable law; and

C. That Wausau Homes be awarded any and all further legal and equitable relief that the Court may deem just and proper under the circumstances.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing was served electronically using the Court's CM/ECF system on this 21st day of August, 2024, on the counsel of record listed below:

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